S.B. Cri. Misc. Suspension of Sentence (Bail) Appl. No.84/2007
in
S.B. Criminal Revision Petition No.447/2007

(Soma S/o Lalluji Vs. State of Rajasthan)

Date of Order: July 17. 2007

HON'BLE MR. H.R. PANWAR, J.

Mr. Bharat Shrimali, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

Heard learned counsel for the petitioner and the Public Prosecutor.

It is contended by the learned counsel for the petitioner that two Motbir witnesses Pramod Kumar and Mohan Lal the two police officials and no independent Motbir witness has been produced. It is alleged that the radio has been recovered from an open place and has not been put to identification. The investigating officer has categorically admitted that the radio was recovered from an open place and it was not put to identification. It has not been made clear that out of two accused, which of the accused got the said radio recovered. The complainant PW 1 has categorically admitted that the alleged radio was not put to identification and, therefore, according to the learned counsel for the petitioner, both the courts below fell in error in over-looking the material evidence.

Admit. Issue notice. Mr. Ashok Upadhyaya, Public

Prosecutor appearing for the State, accepts the notice.

Heard learned counsel for the parties on the application for suspension of sentence.

Having considered the totality of the facts and circumstances of the case and the fact that there is an arguable point involved in the case, I think is just and proper to suspend the substantive sentence of imprisonment awarded to the accused-petitioner.

Accordingly, the bail application filed under Section 397 (1) Cr.P.C. is allowed and it is ordered that the substantive sentence passed by the trial court and affirmed by the learned al Sessions Judge, Sirohi, vide judgment dated 09-5-2007 in Criminal Appeal No. 32/2006 against applicant-petitioner Soma S/o Lalluji shall remain suspended till final disposal of the aforesaid revision petition, provided he executes a personal bond in the sum of Rs.20,000/- with two sureties of Rs.10,000/- each to the satisfaction of the learned trial Judge for his appearance before this Court on 20-8-2007 and whenever ordered to do so with the incorporation in the bond that as and when he will shift his place of residence, he will intimate to this Court and his lawyer about his new place of residence.

(H.R. PANWAR), J.

mcs